

Introduced by Senator Pavley

February 16, 2011

An act to amend Section 4604 of, to add Section 4629 to, and to add Article 7.6 (commencing with Section 4595) to Chapter 8 of Part 2 of Division 4 of, the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

SB 455, as introduced, Pavley. Forestry: watersheds: timber harvesting plans.

(1) The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. A violation of the act is a crime.

The bill would authorize a person to file a watershed timber harvest plan (WTHP), as defined, for the purpose of conducting timber operations. The bill would require the WTHP to be prepared by a registered professional forester and filed with the department in writing and would require the forester to certify and provide a report describing the inspection of the WTHP area. By creating a new crime in the act, the bill would impose a state mandated-local program.

The bill would require the WTHP to contain certain information, including the name and address of the timber owner and timberland owner. The bill would require the WTHP to include a sustained timber production assessment that includes certain information, including a summary table of wildlife habitat relationships compositions and state structure types. The bill would require the WTHP to also include a watershed assessment and planning segment and a fish and wildlife assessment, as specified.

The bill would require the department to provide notice of the filing of the WTHP to a person who requests it, and would require the department to place the WTHP, or a copy, in a file available for public inspection and to post a copy on the department's Internet Web site. The bill would authorize the department to assess an application fee for its appropriate costs in reviewing a WTHP and accompanying environmental impact report.

The bill would require a compliance report to be filed every 2 years with the department by every landowner with an approved WTHP.

The bill would require the director of the department to determine whether the WTHP conforms with the rules and regulations of the State Board of Forestry and Fire Protection. If the director determines that the WTHP would violate any applicable rule, law, or regulation, the bill would require the director to return the WTHP stating his or her reasons. The bill would provide the person to whom the WTHP is returned has the right to request a public hearing before the board, as provided.

The bill would require an approved WTHP and the related environmental impact report to be effective for an unspecified period of years.

The bill would authorize the plan submitter to submit a proposed amendment to the approved WTHP, as provided. The bill would require the plan submitter to notify each county recorder in which lands subject to the WTHP are located. The bill would authorize the WTHP landowner to cancel the WTHP by submitting written notice to the department. The bill would require the WTHP landowner to file a notice with the department if he or she plans to conduct timber operations on the land within a given year. The bill would require the director to disapprove a notice of WTHP activities in specified circumstances.

The bill would require the landowner, upon completion of WTHP activities, to file a report of satisfactory completion. The bill would require the landowner to file with the department a compliance report within 2 years of the approval date of the WTHP, and for every 2 years thereafter, until all units in the WTHP area have received completion reports.

The bill would require the director to report to the Legislature, beginning December 31, 2017, and every 5 years thereafter, on these provisions and any amendments needed to these provisions.

(2) The act requires the department to provide an initial inspection of the area in which timber operations are to be conducted within 10

days from the date of filing of the timber harvesting plan or a nonindustrial timber management plan, or a longer period as may be mutually agreed upon by the department and the person submitting the plan.

This bill would require the department to also provide an initial inspection of the area in which timber operations are to be conducted within in 10 days from the date of filing of a WTHP.

(3) The act requires a person who owns timberlands that are to be devoted to uses other than the growing of timber, to file an application for conversion with the board.

This bill would require landowners who convert lands so that the land is no longer used for the commercial production of timber, among other things, to fully mitigate the loss of biological carbon stocks and the loss of future sequestration capacity associated with the conversion. The bill would require the carbon emission mitigation to meet the standards of the California Global Warming Solutions Act of 2006. The bill would require the State Air Resources Board, in consultation with various entities, to adopt regulations to implement these provisions.

The bill would require a county where a conversion occurs to ensure that mitigation is implemented and authorizes the county to charge an administrative fee to offset its costs to do so. The bill would also require the county to provide an annual report to various entities that includes a brief description of conversions that occurred, among other things, thereby imposing a state-mandated program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the California
2 Watershed and Forestland Conservation Act of 2011.

1 SEC. 2. The Legislature finds and declares the following:

2 (a) One of the primary threats to maintaining carbon
3 sequestration in the forest sector is loss of forestland to conversion
4 to other uses. Existing state policies call for avoiding or mitigating
5 this loss so as to retain California's current and future carbon
6 sequestration capacity.

7 (b) It is the intent of the Legislature to establish a range of
8 incentives to accommodate a variety of responses to forestland
9 conversion, and to adopt an array of mitigation options for
10 forestland conversions, and not to prohibit future conversions.

11 (c) It is further the intent of the Legislature that the mitigation
12 activities that are undertaken pursuant to Section 4629 of the Public
13 Resources Code may properly provide economic benefits to
14 participating landowners who may undertake the necessary
15 stewardship activities on their lands that will help achieve the
16 carbon objectives of the Global Warming Solutions Act of 2006
17 (Division 25.5 (commencing with Section 38500) of the Health
18 and Safety Code and the scoping plan prepared pursuant to that
19 act.

20 (d) Forest conversion is a serious threat to California's
21 forestlands and the jobs, resources, and services they provide.
22 Since 1973, California has lost 1.2 million acres of forestland, and
23 continues to convert 18,000 acres of oak woodlands alone every
24 year.

25 (e) California's forestlands provide important environmental
26 and economic benefits including timber production, which was
27 valued at four hundred and seventy-four million dollars
28 (\$474,000,000) in 2007, watershed protection, carbon sequestration
29 and storage, biomass for energy production, recreation, and habitat
30 for wildlife.

31 (f) The Legislature finds and declares that it is the policy of the
32 state to encourage prudent and responsible long-term forest
33 management of timberlands to maintain the economic use of those
34 timberlands, minimize the cost of project review for state and local
35 government and associated impacts to the General Fund, provide
36 for an efficient permitting process for the landowner, effective
37 regulatory oversight, and provide for comprehensive environmental
38 impact analysis, mitigation, and protection.

39 (g) It is the intent of the Legislature to establish an optional,
40 voluntary, watershed-scale timber harvest permitting process that

1 coordinates the permitting requirements of the various responsible
2 and trustee agencies involved in the review of watershed-scale
3 timber harvest plans, including but not limited to the Department
4 of Forestry and Fire Protection, the appropriate California regional
5 water quality control board, the Department of Fish and Game,
6 the Department of Conservation, and other public agencies.

7 (h) It is the intent of the Legislature that the timber harvest
8 permitting process established by this act lead to measurable
9 climate benefits in existing biological carbon stocks on the
10 timberlands covered by this permitting process and that long-term
11 sustained yield include analysis of carbon stocks that demonstrates
12 attainment of these objectives.

13 (i) It is the intent of the Legislature that timberland enrolled in
14 the watershed-scale permitting program established by this act
15 shall be maintained as forestland, and not converted to nonforest
16 uses during the effective period of the permit.

17 (j) It is the intent of the Legislature that the environmental
18 impact reports prepared under this permitting authority established
19 by this act will support the issuance of state permits necessary to
20 conduct timber operations and that agencies and departments with
21 regulatory permitting authority for activities necessary to
22 implement timber operations concur with the environmental impact
23 report in writing prior to approval by the department. Responsible
24 and trustee agencies are strongly encouraged to conduct joint field
25 inspections to resolve interagency disagreements because
26 discussions about resource management are often more effective
27 when they occur in the field.

28 (k) It is the intent of the Legislature to encourage forests to be
29 managed for structural and biological diversity, to create more
30 structurally diverse wildlife habitat, to enhance resilience to climate
31 change, to increase carbon sequestration, and to result in the
32 focused protection of public trust resources.

33 (l) It is not the intent of the Legislature to constrain the authority
34 of any responsible or trustee or other public agency with review
35 authority over a watershed timber harvest plan.

36 (m) It is the intent of the Legislature that the state agencies
37 involved in the review of watershed timber harvest plans (WTHP)
38 have the staff and fiscal resources to be fully engaged in the review
39 and approval of the WTHP, its environmental analyses, and the
40 other activities enumerated in this article.

(n) It is the intent of the Legislature to recognize that landowners with a genuine interest in conservation should be allowed to participate in mitigation activities, including mitigation banking, that adds economic value to the conservation activities undertaken pursuant to this act and other specified, beneficial environmental actions.

SEC. 3. Article 7.6 (commencing with Section 4595) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.6. Watershed Timber Harvest Plan

4595. Notwithstanding Section 4521, unless the context requires otherwise, the following definitions govern the construction of this article:

(a) “Assessment area” means a portion of the ownership that has similar geological, climatic, and hydrological conditions that support similar management practices. An assessment area may include land not owned or controlled by the plan submitter, as necessary to create a logical assessment unit. The assessment area shall be comprised of planning watersheds. A watershed timber harvest plan (WTHP) may be comprised of one or more assessment areas.

(b) “CEQA” means the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(c) “Ownership” means the land owned by the timberland owner or timber owner.

(d) “Planning watershed” means a planning watershed as delineated in the California Interagency Watershed Mapping Committee (CalWater) planning watershed maps.

(e) “Watershed timber harvest plan” or “WTHP” means a long-term management plan and timber harvesting permit for timberlands with an objective of sustained yield for each parcel or group of parcels meeting the requirements of this article and for which the department has certified an environmental impact report pursuant to CEQA.

(f) “Watershed timber harvest plan notice” or “WTHP notice” means a document that provides public notice of timber harvest operations pursuant to an approved WTHP that meets the requirements of this article.

1 4595.1. (a) Except as modified in this article, the provisions
2 set forth in CEQA and this chapter and regulations adopted by the
3 board shall apply to this article.

4 (b) All timber harvesting activity within the area within an
5 approved WTHP shall occur pursuant to this article.

6 4595.2. (a) A watershed timber harvesting plan may be filed
7 with the department in writing. A WTHP shall be prepared by a
8 registered professional forester and it shall be a public record.

9 (b) Notwithstanding Section 4581, a person may conduct timber
10 operations pursuant to a WTHP, as authorized pursuant to this
11 article.

12 4595.3. In addition to information required by CEQA, a WTHP
13 shall include all of the following information:

14 (a) Name and address of the timber owner and timberland owner.

15 (b) Ownership description and location, including legal
16 descriptions and maps depicting the ownership and management
17 units, which shall be at a scale sufficient to allow the director to
18 determine the area covered by the WTHP.

19 (c) Management objectives for resources addressed in the
20 WTHP, including timber products.

21 (d) A general narrative description of the forest types, fish and
22 wildlife habitats, and watercourses and lakes.

23 (e) Descriptions of the assessment area and rationale for
24 assessment area selection.

25 (1) The assessment area shall not exceed 100,000 acres unless
26 designation of a larger area is explained and justified in the WTHP
27 and determined by the director to be consistent with an approved
28 habitat conservation plan or natural community conservation plan.

29 (2) All planning watersheds included in the assessment area
30 shall be hydrologic subparts of that assessment area.

31 (f) Identification and mapping of planning watersheds classified
32 as sensitive watersheds and description of the measures taken to
33 protect resources within those watersheds.

34 4595.4. (a) Consistent with the protection of soil, water, air,
35 fish, and wildlife resources, a WTHP shall include a sustained
36 timber production assessment that clearly demonstrates how the
37 submitter will achieve maximum sustained production of
38 high-quality timber products while giving consideration to regional
39 economic vitality and employment at planned harvest levels during
40 the planning horizon.

1 (b) If the WTHP is based upon data on file with the director,
2 the data shall be updated no sooner than 10 years and no later than
3 11 years after approval. Proprietary information shall be treated
4 consistent with Section 21160.

5 (c) The sustained timber production assessment required by
6 subdivision (a) shall include all of the following:

7 (1) A summary table of wildlife habitat relationships (WHR)
8 compositions and stand structure types, or comparable stand
9 structure types within forest vegetation types with their respective
10 acreage. For an ownership's specific stand structure types, the
11 registered professional forester shall provide a written description
12 of the stand structure and characteristics that define each type, and
13 comparisons of those types to WHR typing. The WHR system and
14 its uses as described in "A Guide to the California Wildlife Habitat
15 Relationships System," California Department of Fish and Game,
16 March 1988 is herein incorporated by reference.

17 (2) An estimate of the long-term sustained yield of the lands
18 proposed to be included in the WTHP, which shall be stated in
19 terms of board feet per year or cubic feet per year and include a
20 description of how the estimate was reached. If the ownership has
21 not attained long-term sustained yield, the WTHP shall estimate
22 and justify the transition period necessary to achieve long-term
23 sustained yield.

24 (3) A projection of growth and harvest for each WHR type or
25 comparable stand structure type within forest vegetation type over
26 each 10-year period in the planning horizon for each planning
27 watershed and a description, in narrative form, of the accuracy and
28 methodology used to estimate growth.

29 (4) A demonstration of measurable climate benefits in existing
30 biological carbon stocks on the timberlands during the period
31 covered by the WTHP.

32 (5) A discussion of the accuracy of the inventory data for the
33 management unit. Inventory data, models and growth and harvest
34 projections utilized for harvest scheduling projections shall be
35 available for confidential audits by reviewing agencies along with
36 the basis for this data, including, but not limited to, the cruise
37 design and sample plot data and the statistical validity of those
38 estimates.

39 (6) A description of the silvicultural prescriptions applied to
40 each stand type, along with projected changes in WHR types at

1 five-year intervals that reflects planned silvicultural application
2 and growth of harvested and unharvested stands.

3 (7) On lands controlled by the WTHP landowner, a disclosure
4 of areas intended to be harvested within the period covered by the
5 WTHP permit, and the planned silvicultural method.

6 (d) The landowner shall include maps in the WTHP that show
7 the spatial and temporal information by silvicultural method for
8 areas to be harvested under the plan.

9 4595.5. A WTHP shall include a fish and wildlife assessment
10 that shall contain all of the following:

11 (a) The area for the fish and wildlife impacts assessment, which
12 shall be the same area as the management unit under the WTHP.
13 Areas outside the ownership shall be included as necessary to
14 assess the potential individual or cumulative effect of timber
15 operations. In areas with multiple ownerships, landowners may
16 cooperate to establish a management unit and develop a fish and
17 wildlife habitat assessment for inclusion in the WTHP, pursuant
18 to regulations adopted by the board.

19 (b) Provisions that address threatened, endangered, and sensitive
20 species and nonlisted fish, and wildlife species to which timber
21 operations could cause significant adverse individual or cumulative
22 impacts. The fish and wildlife assessment shall address, those
23 species' habitat needs and the availability, shapes, and distribution
24 of habitats in relation to harvest schedule and growth projections
25 and the impacts of harvesting on those habitats. The WTHP shall
26 discuss and include all feasible measures planned to avoid or
27 mitigate potentially significant adverse environmental effects on
28 fish and wildlife.

29 (c) Maps by management unit showing changes to wildlife
30 habitat relationship types or stand structure types that are likely to
31 result from projected timber operations.

32 (d) A description and demonstration that the harvest units in
33 the WTHP shall retain and accrue structural elements, including
34 live trees, dead snags, and downed logs. Harvest units within a
35 WTHP shall retain postharvest not less than ____ percent of the
36 preharvest basal area in merchantable live trees native to the site.
37 This retention may be aggregated or dispersed, but the target shall
38 be met on any ____ acre area.

39 4595.6. A WTHP shall include a watershed assessment and
40 planning segment that shall include all of the following:

1 (a) The minimum assessment area, which shall not be less than
2 a planning watershed.

3 (b) An analysis of potentially significant adverse impacts,
4 including cumulative impacts, of the planned operations and other
5 projects, on ambient water quality, carbon sequestration, fisheries,
6 wildlife, and other environmental values.

7 (c) A description of the individual planning watersheds in
8 sufficient detail to allow a review of the analysis of impacts.

9 (1) For all planning watersheds in the management unit within
10 a forest district descriptions shall include, as appropriate, either or
11 both of the following:

12 (A) General maps and descriptions of unstable areas and
13 unstable soils known to the plan submitter to be actively or
14 potentially discharging sediment, as well as those mapped by public
15 agencies.

16 (B) A description of the rules, regulations, and practices to be
17 used to avoid erosion from timber operations, or increases in water
18 temperature, at a level of detail sufficient for the California regional
19 water quality control board to evaluate whether the WTHP meets
20 the permitting requirements and water quality standards of the
21 relevant Basin Plan and other applicable provisions of the
22 Porter-Cologne Water Quality Act (Division 7 (commencing with
23 Section 13000) of the Water Code).

24 (2) For all planning watersheds in which harvesting will take
25 place, descriptions shall include, as appropriate, either or both of
26 the following:

27 (A) A map of all public roads within the WTHP area, as well
28 as an inventory and plan for management of all the permanent,
29 seasonal, and temporary roads controlled by the landowner. On
30 roads controlled by the landowner, the road inventory shall do all
31 of the following:

32 (i) Identify problem areas that are discharging sediment to
33 waterways or that are threatening to discharge sediment to
34 waterways, or are otherwise causing environmental harm or in
35 need of maintenance.

36 (ii) Prioritize road-repair sites.

37 (iii) Create a time schedule for repair of the road sites.

38 (B) A general description of areas known to be sensitive to
39 ground disturbance and present sources of erosion.

1 (d) A discussion and inclusion of feasible measures planned to
2 mitigate or avoid significant adverse impacts including impacts
3 associated with public roads that may be used for timber hauling,
4 a discussion of any measures necessary to mitigate impacts on the
5 adjacent community.

6 4595.7. The registered professional forester preparing the
7 WTHP shall certify and provide a report describing his or her, or
8 a designee's, inspection of the WTHP area.

9 4595.8. The notice of receipt of the proposed WTHP shall be
10 given by the department within two working days following
11 submission of the proposed WTHP. The method of notice shall be
12 by United States Postal Service, or at the discretion of the
13 department, may be sent electronically. The person submitting the
14 WTHP shall provide to the department a list of the names and
15 addresses of persons to whom the notice is to be mailed.

16 4595.9. (a) The department shall provide notice of the filing
17 of the WTHP to any person who requests, either in writing or
18 through electronic means. Upon receipt of the WTHP, the
19 department shall place it, or a true copy of the WTHP, in a file
20 available for public inspection in a county in which timber
21 operations are proposed under the WTHP. The department shall
22 also post a copy of the notice electronically on the department's
23 Internet Web site.

24 (b) For the purpose of coordinated interdisciplinary and
25 multiagency review, the department shall transmit a written or
26 electronic copy of the WTHP to the Department of Fish and Game,
27 the appropriate California regional water quality control board,
28 the county planning agency, and all other public agencies having
29 jurisdiction by law over natural resources affected by the proposed
30 WTHP. Notwithstanding any other provision of law, the duration
31 of regulatory permits issued by a California regional water quality
32 control board, the Department of Fish and Game, or other state
33 trustee or responsible agency may be adjusted to conform to the
34 initial term of a 10-year WTHP permit as approved.

35 (c) To the extent the department's staffing and resources are
36 required to fully review the WTHP, the accompanying
37 environmental impact report, and notices of operations submitted
38 pursuant to an approved WTHP, as well as the staffing and
39 resources of responsible and trustee departments and local
40 governments, the department, a trustee, a responsible agency, or

1 local government shall, subject to a fee schedule, assess an
2 application fee or a fee for its appropriate costs in reviewing a
3 WTHP and its accompanying environmental impact report.

4 (d) Prior to approval of a WTHP, all state trustee and responsible
5 agencies shall jointly conduct at least one comprehensive field
6 review of the proposed WTHP.

7 (e) The director shall only approve the WTHP and associated
8 environmental impact report upon written concurrence from the
9 trustee and responsible agencies that the operations conducted
10 pursuant to the WTHP will enable compliance with their respective
11 statutory and regulatory obligations.

12 4595.10. A compliance report shall be filed every two years
13 with the department by every landowner with an approved WTHP,
14 that addresses issues identified by the director as developed in
15 consultation with the responsible and trustee agencies. The report
16 shall include a certification from the registered professional forester
17 that the WTHP is being implemented in compliance with this
18 chapter.

19 4595.11. In addition to any other field review of the WTHP or
20 its annual operations, the department shall require a mandatory
21 five-year field review, with the full participation of all responsible
22 and trustee agencies.

23 4595.12. (a) No later than ____ days from the date that the
24 initial inspection pursuant to Section 4604 is complete, or a longer
25 period mutually agreed upon by the director and the plan submitter,
26 the director shall determine whether the WTHP conforms with the
27 rules and regulations of the board, identifies and mitigates potential
28 significant adverse effects, and conforms to the requirements of
29 this chapter.

30 (b) The draft WTHP, upon determination by the department,
31 may become the notice of preparation submitted to the Office of
32 Planning and Research pursuant to CEQA guidelines and the
33 timelines and procedures in CEQA shall be applied thereafter,
34 except where modified in this article. The director shall make a
35 finding whether the responsible and trustee agencies have
36 concurred, in writing, that the WTHP and its accompanying
37 environmental impact report provide sufficient information to
38 address, analyze, evaluate, and mitigate site-specific characteristics
39 through the issuance of annual notices as provided in this chapter.

1 (c) If the director does not act within the time periods provided
2 in subdivision (a), a longer period may be negotiated and mutually
3 agreed upon by the director and the person submitting the WTHP.
4 If a longer period cannot be mutually agreed upon, the WTHP
5 shall be deemed denied and returned to the person submitting the
6 WTHP.

7 4595.13. (a) If the director determines that the WTHP would
8 violate an applicable rule, law, or regulation, the director shall
9 return the WTHP, stating his or her reasons, and advising the
10 person submitting the WTHP of the person's right to a hearing
11 before the board.

12 (b) A person to whom a WTHP is returned may, within 10 days
13 from the receipt of the WTHP, request a public hearing before the
14 board. The board shall conduct a public hearing with the
15 participation of the appropriate California regional water quality
16 control board, the Department of Fish and Game, and all other
17 reviewing trustees, responsible or other public agencies, to evaluate
18 the WTHP and determine if the WTHP conforms with the rules
19 and regulations of the reviewing trustee, responsible and other
20 public agencies, and this chapter. If a determination is made that
21 the WTHP conforms with the rules and regulations of the reviewing
22 trustee, responsible and other public agencies and this article, the
23 director may forward the WTHP to the Office of Planning and
24 Research as a draft notice of preparation, if the director certifies
25 that the department has received written concurrence from the
26 trustee and responsible agencies that they agree that the plan is
27 lawful.

28 (c) The board shall act no later 30 days after the date of the
29 filing of the appeal, or a longer period mutually agreed upon by
30 the board and the person filing the appeal.

31 (d) If the WTHP is not approved on appeal to the board, the
32 director, within 30 days of board action, may determine that the
33 WTHP conforms with the rules and regulations of the board and
34 this chapter, if the WTHP is subsequently revised to conform with
35 all applicable statutes and regulations. The WTHP and
36 accompanying environmental impact report shall be recirculated
37 pursuant to the provisions of the CEQA guidelines.

38 4595.14. (a) An approved WTHP and the related
39 environmental impact report shall be effective for a period of ____

1 years. The disclosure of planned operations pursuant to a WTHP
2 shall encompass a minimum period of 20 years.

3 (b) All state trustee and responsible agencies shall jointly
4 conduct a comprehensive field review of the WTHP at each
5 two-year interval of a WTHP to ensure compliance with this article.

6 (c) The director, in conjunction with the board and the
7 responsible and trustee agencies, shall develop guidelines for the
8 adaptive management and protection of public trust resources
9 designed to facilitate the use of a WTHP that will be consistent
10 with applicable law.

11 (d) It is the intent of the Legislature that the environmental
12 impact report for a WTHP shall be the basis for all required permits
13 from responsible and trustee agencies, as well as the department,
14 and the terms of each of those permits shall be ____ years,
15 notwithstanding any other provision of law.

16 4595.15. The WTHP plan submitter may submit a proposed
17 amendment to the approved WTHP but shall not take an action
18 that substantially deviates from the approved WTHP until the
19 amendment has been filed, accepted by the director, and circulated
20 in a manner consistent with applicable CEQA guidelines.

21 4595.16. Upon approval of the WTHP, the plan submitter shall
22 notify each county recorder in which lands subject to the WTHP
23 are located and shall cause to be filed with that county a notice
24 that shall be recorded in sufficient detail for a title search to
25 disclose the existence of the WTHP. If there is a change of
26 ownership of the land described in the WTHP, the WTHP shall
27 expire 90 days from the date of change of ownership, unless the
28 new timberland owner notifies the department in writing of the
29 change of ownership and his or her assumption of the WTHP. The
30 new owner is responsible for completing any mitigation required
31 pursuant to any logging operations that have not been deemed
32 completed by the department, and shall comply with the mitigation
33 or other activities required pursuant to the other permits associated
34 with the WTHP.

35 4595.17. The WTHP landowner may cancel the WTHP by
36 submitting a written notice to the department. Once timber
37 operations have commenced pursuant to a WTHP notice,
38 cancellation is not effective on land covered by the notice until a
39 report of satisfactory completion and stocking has been issued
40 pursuant to Sections 4585, 4586, and 4587.

1 4595.18. (a) The WTHP landowner who owns, leases, or
2 otherwise controls or operates on all or any portion of timberland
3 within the boundaries of an approved WTHP, and who plans to
4 harvest the timber thereon during a given year, shall file a WTHP
5 notice with the department. The department shall, within two
6 working days, transmit a written or electronic copy of the notice
7 to agencies and members of the public who participated in the
8 initial review or who have requested notification of the WTHP
9 and shall display the proposed notice on a publicly available
10 Internet Web site.

11 (b) A WTHP notice shall be filed at least 45 days prior to the
12 harvesting of any timber, and shall describe all operations to be
13 conducted under the notice for no less than 12 months or greater
14 than 18 months and may include operations that were planned but
15 not completed in previous notifications.

16 (c) If the person who files the WTHP notice is not the WTHP
17 landowner, the person filing the notice shall notify the forest
18 landowner by certified mail that the notice has been submitted,
19 and shall certify that mailing to the department. It shall also be
20 posted on the department's Internet Web site.

21 (d) This article does not invalidate previously approved timber
22 harvesting plans for lands included in a WTHP. These timber
23 harvesting plans may remain effective at the option of the plan
24 submitter. If the landowner elects to have these existing plans
25 continue, the operational effects of these timber harvesting plans
26 shall be part of the analysis included in the WTHP.

27 4595.19. A WTHP notice required pursuant to Section 4595.18
28 shall include all of the information required for a program
29 timberland environmental impact report pursuant to Section
30 1092.01 of Title 14 of the California Code of Regulations.

31 4595.20. (a) Within 10 days of the receipt of the WTHP notice
32 required pursuant to Section 4595.18, the director shall contact
33 responsible and trustee agencies for the purpose of determining
34 the need for field inspections. Within 20 days of the receipt of the
35 WTHP notice, or a mutually agreeable longer time, the director
36 shall complete the field review of proposed operations.

37 (b) If a WTHP notice is determined to be inadequate, the
38 applicant may modify and resubmit the notice. If the modifications
39 are minor, as determined by the director, and would achieve
40 compliance with this article, the director may thereafter approve

1 the WTHP notice if there are no objections from responsible or
2 trustee agencies.

3 4595.21. A WTHP notice may be included, as a tier of an
4 approved environmental impact report for purposes of Section
5 21093, in accordance with CEQA, and operations may commence
6 within ____ days of that notice, if all the following conditions are
7 satisfied:

8 (a) A period of public comment and review by responsible and
9 trustee agencies is established.

10 (b) The director authorizes a field review of the proposed
11 operations.

12 (c) The director has not received objections from trustee and
13 responsible agencies that the environmental impact report is
14 inadequate to analyze site specific conditions.

15 (d) The registered professional forester certifies that no
16 significant changes have occurred requiring an amendment or
17 supplement to the environmental impact report.

18 (e) The registered professional forester certifies that there will
19 be no take of protected or listed plant or animal species present
20 within the proposed harvest area or that all conditions of an
21 incidental take permit will be fulfilled.

22 (f) The registered professional forester certifies that all
23 operations will be conducted pursuant to this chapter and its
24 implementing regulations or this article.

25 (g) The registered professional forester certifies that all
26 necessary work has been completed preparatory to operations such
27 as identification of watercourse and lake protection zone, roads,
28 stream crossing design, tree marking, unit layout, harvest boundary
29 delineation, and any other requirements established by the director.

30 (h) The licensed timber operator has been provided operational
31 guidance in a format that is acceptable to the director and that is
32 included as part of the WTHP notice of operations.

33 4595.22. When a responsible or trustee agency objects to a
34 WTHP notice, the objection shall be resolved within ____ days,
35 and operations shall not commence until the objection is resolved.

36 4595.23. The director shall establish guidelines to resolve
37 circumstances in which trustee and responsible agencies offer a
38 fair argument to the director that modifications should be made to
39 the WTHP and environmental impact report to respond to
40 conditions that were not analyzed, mitigated, or reasonably

1 anticipated. The director shall require modifications if the presence
2 of threatened, endangered, or candidate species was not previously
3 evaluated. The director may institute an adaptive management
4 program based on issues raised by the trustee or responsible
5 agencies when it is reasonably certain the proposed mitigation for
6 specific activities will be inadequate over the term of the WTHP.
7 On a site-specific basis, the director may also require additional
8 mitigation or alternative practices. Timber operations shall not
9 commence until the director finds, after an opportunity for public
10 comment, that any issue specified in this section has been resolved.

11 4595.24. The director shall not approve a WTHP notice if the
12 notice proposes operations or activities in any of the following
13 circumstances or conditions:

14 (a) Boundaries of the area to be harvested are not clearly
15 delineated in the WTHP notice.

16 (b) Operations that propose alternative means of compliance
17 with applicable permits from a trustee or responsible agency that
18 were not approved by the appropriate regulatory agency.

19 (c) Activities that were not analyzed or evaluated in the WTHP
20 notice or environmental impact report.

21 (d) Public acquisition of the parcel for purposes that would be
22 impaired by timber harvesting, is legislatively authorized, funded,
23 and imminent.

24 (e) There is evidence that the information contained in the
25 WTHP notice is incorrect, incomplete, or misleading in a material
26 way, or is insufficient to evaluate significant environmental effects.
27 The sufficiency of the information provided in a WTHP notice to
28 evaluate significant environmental effects shall be judged in light
29 of what is reasonable and necessary.

30 4595.25. Upon the completion of activities pursuant to the
31 WTHP notice, the landowner shall file a report of satisfactory
32 completion that includes, but is not limited to, stocking, pursuant
33 to Sections 4585, 4586, and 4587. The completion report shall
34 indicate which areas of the notice have been operated.

35 4595.26. (a) The WTHP landowner shall file with the
36 department a compliance report within two years of the approval
37 date of the WTHP, and for every two years thereafter, until all
38 units in the WTHP have received completion reports from the
39 department. The report shall address the findings of any inspection
40 conducted under Section 4604 or 4595.20 since the date of the last

1 compliance report. The report shall include a certification by the
2 registered professional forester that the WTHP has been carried
3 out in compliance with the provisions of the WTHP and applicable
4 law.

5 (b) The registered professional forester who prepares the WTHP,
6 notice, or report, or any other registered professional forester who
7 is employed by the WTHP landowner or operator, shall report to
8 the owner or operator and the department if there are deviations
9 from the WTHP that could reasonably be concluded to threaten
10 the attainment of the resource conservation standards of the WTHP.

11 4595.27. If the board finds that a registered professional forester
12 has made a material misstatement in a WTHP, notice, or report
13 under this article, the board shall take disciplinary action against
14 him or her as provided under Section 775.

15 4595.28. (a) A WTHP shall be suspended by the department
16 if any of the following conditions apply:

17 (1) It is determined by the department that the goals or
18 provisions of the WTHP are not being met.

19 (2) The WTHP landowner fails to file a compliance report,
20 certified by a registered professional forester, as required under
21 Section 4595.10.

22 (3) Persistent violations of the WTHP are detected.

23 (4) Timber operations are causing violations of permits issued
24 by the department, the Department of Fish and Game, the
25 California regional water quality control board, or any other trustee,
26 responsible, or other reviewing public agency.

27 (5) The landowner files an application for a timberland
28 conversion permit pursuant to Article 9 (commencing with 4621),
29 for lands within the boundaries of an approved WTHP or a party
30 proposes to remove lands from within the boundaries of an
31 approved WTHP from a timberland production zone pursuant to
32 the Timberland Productivity Act (Article 1 (commencing with
33 Section 51100) of Chapter 6.7 of Part 1 of Division 1 of Title 5 of
34 the Government Code.)

35 (b) A WTHP suspended under subdivision (a) shall remain
36 suspended until the director finds the WTHP is in compliance with
37 the approved WTHP and other applicable law. If, based on
38 substantial evidence, the director determines the noncompliance
39 to be severe, he or she may cancel or revoke the WTHP.

1 (c) Upon the suspension of a WTHP, no additional timber
2 operations shall occur pursuant to the current WTHP notice, and
3 no additional notices shall be accepted by the department until
4 appropriate corrections are completed.

5 (d) Upon suspension or cancellation of the WTHP, tree removal
6 operations on an active WTHP notice are prohibited. Once
7 operations on the WTHP notice have ceased, all required erosion
8 control and the application of site-specific mitigation described in
9 the WTHP to avoid adverse environmental impact or road
10 maintenance shall be completed.

11 (e) During a period of WTHP suspension or cancellation, a
12 landowner may submit timber harvesting plans to the department
13 for approval under Section 4581, and may operate pursuant to
14 those plans while the conditions described in this section are under
15 consideration by the director. However, if the impacts of those
16 harvest plans are more significant than the operations evaluated
17 in the WTHP, the WTHP shall be considered permanently
18 canceled.

19 (f) A person to whom a WTHP is suspended or canceled under
20 this section may, within 10 days from the date of receipt of the
21 director's action on the WTHP, request a public hearing before
22 the board.

23 4595.29. In addition to an inspection provided for under Section
24 4604, the department shall provide a compliance inspection of the
25 area in which timber operations are being or are to be conducted
26 within one year of the approval date of the WTHP, and every year
27 thereafter, during the effective period of the WTHP, for compliance
28 with this chapter and the rules and regulations of the board. This
29 section does not limit the authority of an agency to inspect pursuant
30 to any other law.

31 4595.30. (a) Notwithstanding Section 10231.5 of the
32 Government Code, on or before December 31, 2017, and every
33 five years thereafter, the director shall inform the Legislature of
34 his or her evaluation of this article including the identification of
35 any recommended amendments.

36 (b) A report submitted pursuant to subdivision (a) shall be
37 submitted in compliance with Section 9795 of the Government
38 Code.

39 SEC. 4. Section 4604 of the Public Resources Code is amended
40 to read:

1 4604. (a) The department shall provide an initial inspection
2 of the area in which timber operations are to be conducted within
3 10 days from the date of filing of the timber harvesting plan,
4 *watershed timber harvest plan (WTHP)*, or nonindustrial timber
5 management plan, or a longer period as may be mutually agreed
6 upon by the department and the person submitting the plan, except
7 that the inspection need not be made pursuant to the filing of a
8 timber harvesting plan if the department determines that the
9 inspection would not add substantive information that is necessary
10 to enforce this chapter. The department shall provide for
11 inspections, as needed, as follows:

- 12 (1) During the period of commencement of timber operations.
- 13 (2) When timber operations are well under way.
- 14 (3) Following completion of timber operations.
- 15 (4) At any other times as determined to be necessary to enforce
16 this chapter.

17 (b) (1) The Department of Fish and Game, the California
18 regional water quality control boards, or the State Water Resources
19 Control Board, if accompanied by Department of Forestry and
20 Fire Protection personnel and after 24-hour advance notification
21 is given to the landowner, may enter and inspect land during normal
22 business hours at any time after commencement of timber harvest
23 plan activities on the land and before the director issues a report
24 of satisfactory completion of stocking pursuant to Section 4588
25 or at any time before the end of the first winter period following
26 the filing of a work completion report pursuant to Section 4585,
27 whichever is later. ~~Any~~ A member of the inspection party may
28 utilize whatever measurement and evaluation devices, including,
29 but not limited to, photographic equipment and temperature
30 measurement devices, that are determined to be necessary, when
31 participating in an inspection of an area pursuant to subdivision
32 (a) or after commencement of timber harvesting plan activities
33 pursuant to this subdivision.

34 (2) Photographs taken during inspections shall be clearly labeled
35 as to time, date, and location and shall be the property of the
36 department and part of the inspection record. The inspection record
37 shall be subject to all provisions of the California Public Records
38 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
39 of Title 1 of the Government Code).

1 (3) This subdivision is not a limitation upon *does not limit* the
2 authority of ~~any~~ *an* agency to inspect pursuant to any other
3 provision of law.

4 (e) ~~This section shall become operative on January 1, 1991, or~~
5 ~~on the effective date of the rules and regulations adopted by the~~
6 ~~State Board of Forestry and Fire Protection pursuant to Senate Bill~~
7 ~~1566, whichever date occurs first.~~

8 SEC. 5. Section 4629 is added to the Public Resources Code,
9 to read:

10 4629. (a) Landowners who convert lands, as described in
11 subdivision (h), shall fully mitigate the loss of biological carbon
12 stocks and the loss of future sequestration capacity associated with
13 the conversion.

14 (b) Estimates of the greenhouse gas emissions to be mitigated
15 shall be calculated for the converted area based on all of the
16 following:

17 (1) The difference in biological carbon stocks before and after
18 the conversion.

19 (2) The total future sequestration potential of the converted area.

20 (3) Any depletion of carbon stocks in the 10 years prior to the
21 conversion.

22 (c) (1) All carbon emissions mitigation shall meet the standards
23 of the California Global Warming Solutions Act of 2006 (Division
24 25.5 (commencing with Section 38500) of the Health and Safety
25 Code) and shall be administered in California on forestland in any
26 of the following ways:

27 (A) Through a qualified, state-approved third party.

28 (B) Through a public agency program, including a county
29 program.

30 (C) By a project applicant on land owned by the applicant.

31 (2) To the extent feasible, mitigation shall occur on lands of
32 similar forest type and quality and in close geographic proximity
33 to the conversion.

34 (3) To the extent feasible, mitigation activities shall maintain
35 and support native species, habitats, and environmental cobenefits.

36 (d) Mitigation for a conversion that is implemented pursuant to
37 the California Environmental Quality Act (Division 13
38 (commencing with Section 21000)) or another statute may
39 contribute or fulfill the requirements of this section provided all
40 the requirements of this section are met.

1 (e) A county in which a conversion occurs shall ensure that
2 mitigation pursuant to this article is implemented. It may do so in
3 conjunction with other actions necessary to approve the conversion.
4 It may charge an administrative fee to offset its costs.

5 (f) The State Air Resources Board, in consultation with the
6 Natural Resources Agency and any counties with an interest in
7 participating, shall adopt regulations to implement this article. The
8 regulations shall provide, but are not limited to, all of the following:

9 (1) Methodologies to fully mitigate the carbon emissions of the
10 conversion that are consistent with the California Global Warming
11 Solution Act of 2006 (Division 25.5 (commencing with Section
12 38500)). The methodologies shall ensure that the mitigation of
13 carbon emissions from the conversion occur within a comparable
14 temporal scale as the emissions and foregone sequestration from
15 the conversion.

16 (2) Provisions for monitoring and enforcement of the mitigation
17 activities by the state, county, or a qualified third party, and
18 establishing criteria for the use, when appropriate, of deed
19 restrictions, covenants, or other instruments that will ensure that
20 the mitigation is fully consistent with the California Global
21 Warming Solutions Act of 2006 (Division 25.5 (commencing with
22 Section 38500)).

23 (3) Provisions to authorize the State Air Resources Board to
24 temporarily or permanently administer this article in a county in
25 which the State Air Resources Board finds, after a public hearing,
26 that a county has failed to implement this article.

27 (g) A county in which a conversion occurs shall provide an
28 annual report to the State Air Resources Board and the Department
29 of Forestry and Fire Protection that includes a brief description of
30 conversions that occurred and mitigation that was required and its
31 ongoing monitoring pursuant to this division.

32 (h) For purposes of this section, “conversion” or “convert”
33 means either of the following:

34 (1) Those changes in the use of timberland, as defined in Section
35 4526, such that the land is no longer used for the commercial
36 production of timber.

37 (2) Those changes in the use of forestland, as described in
38 subdivision (c) of Section 12251, such that the biological carbon
39 stocks or sequestration capacity on those lands are diminished.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution for certain
3 costs that may be incurred by a local agency or school district
4 because, in that regard, this act creates a new crime or infraction,
5 eliminates a crime or infraction, or changes the penalty for a crime
6 or infraction, within the meaning of Section 17556 of the
7 Government Code, or changes the definition of a crime within the
8 meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.